

U.S. sums up case

DA

'PROTECTED

PINBALLS'

Related story, Page A-3

EDITOR'S NOTE: The following story was compiled by States-Item staffers Ed Lepore, Allen Katz, Larry Thomas and Bill Peasey.

DA. Atty. Gen. Garrison in 1962 rejected a plan for cleaning up pinball gambling in New Orleans and thereby helped a conspiracy to protect the gambling, the federal court pinball judge said today.

Atty. U.S. Atty. Michael Ellis advised the nine-man, three-woman jury during the final arguments in the trial of Garrison and pinball figures John Arons, Callery and Robert Nims. Only final arguments by the government and the defense and the trial judge's charge to the jury remain before the case, now in its sixth week, goes to the jury.

Ellis discussed the testimony of government informant Pershing O. Gervais, a former chief investigator for Garrison, who said he proposed to Garrison in 1972 a plan for prosecuting pinball operators.

Reviewing Gervais' testimony, Ellis said Gervais found out where pinball machines were being operated with cash payoffs shortly after Garrison took office and presented to the DA a plan to rid the city of the gambling. Gervais, Ellis said, wanted to notify pinball operators they were violating the law and that their businesses would be closed if they continued to operate.

"Testimony you have heard," Ellis said, "showed that Mr. Garrison had knowledge of illegal pinball gambling businesses that were flourishing in the city at that time."

Gervais testified that Garrison told him, "No, Pershing you can't do that." Ellis said. He said Garrison's reason was that the pinball industry had contributed \$10,000 to his election campaign.

After that, Ellis said, Garrison sent Gervais to meet Callery and that Gervais and Callery formulated a system of regular bribe payments.

The pinball industry made bribe payments to Garrison, Ellis contended, so

the DA would take no action against pinball gambling.

He said Gervais' testimony showed the agreement was for the pinball owners to pay Garrison \$50 a day and that Garrison knew what the payments were for.

Ellis was the third government attorney to address the jury. Preceding him were U.S. Atty. Gerald J. Gallinhouse and K. Eric Gieselson, chief of the justice Department's organized crime strike force.

After the government completes its final arguments, each defense attorney—Garrison is representing himself—

Turn to A-6, Column 1

will be given an opportunity to present closing arguments and the government then will have an opportunity for rebuttal.

The jury, which has been free to go home each night since the trial started, Aug. 20, will be sequestered until a verdict is reached.

Gieselson spent his time going over the indictment against Garrison, Callery and Nims and said the government believes it has proved beyond a reasonable doubt that a conspiracy existed.

"We are trying no other case here and no other defendants than these three," he said. "We must prove that two or more people agreed to take steps that would prevent law enforcement officials from carrying out the law."

"We must prove that one of those was a public official and that at least one other was in the illegal gambling

business. We must prove that this illegal gambling business was in operation for more than 30 days. The essence of the charge is that a conspiracy existed to violate the law."

Gisleson said the indictment charges 35 overt acts made in furtherance of the conspiracy and that the government must prove only one of these acts.

Gisleson said that although Callery was not involved in owning pinball machines between Oct. 15, 1970, and June 30, 1971, when the arrests were made, evidence in the trial has proved he was part of the conspiracy. "He was the man who made the whole thing work," Gisleson said.

Gallinghouse opened the government's arguments and told the jury that Garrison, Callery and Nims—and not Gervais or the United States government—are on trial.

In his brief opening statement to the jury, Gallinghouse asked the jurors, "Please keep in mind that nothing that is said by the attorneys for either the government or the defense is evidence. These are merely arguments, nothing more, nothing less."

Gervais, whose undercover work for the government formed the basis for most of the government's case, is expected to come under heavy attack in closing defense arguments. Garrison is expected to attack the government which he has claimed is trying to persecute him for his investigation of the assassination of President Kennedy.

Garrison, Callery and Nims are charged with conspiracy to obstruct law enforcement by giving and taking bribes to protect pinball gambling.

Garrison, who has held office since 1962, and other defendants could be jailed for five years and fined \$20,000 if convicted.

Unlike other defendants, the DA conducted his own defense for the past week and a half.

AS A DEFENDANT making his own closing statement, he has the unique opportunity to look jurors straight in the eye and tell them he is not guilty.

Garrison did not testify on his own behalf, nor did other defendants. But

by addressing the jury as an attorney-defendant, Garrison will be able to speak out without undergoing a rigorous cross-examination.

Closing arguments were expected to be lengthy and consume most of the day.

U.S. Dist. Court Judge Herbert W. Christenberry, a 25-year veteran of the bench, will charge the jury. He will explain in great detail the mechanics of weighing evidence and the law as it relates to conspiracy.

One of the points he will explain is: If a conspiracy is proven by the government, then only one overt act of a defendant to carry out that conspiracy is necessary to make him a party to that conspiracy.